

NOT INCLUDED
IN BOUND VOLUMES

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

PRE-CAST SPECIALTIES, INC.
Employer

and

Case 12-RC-139665

CONSTRUCTION AND CRAFT WORKERS
LOCAL UNION No. 1652
Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to an election held on December 9, 2014, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 121 for and 64 against the Petitioner, with no challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's findings¹ and recommendations², and finds that a certification of representative should be issued.

¹ The Employer has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings.

In adopting the hearing officer's recommendation to overrule Objections 6, 9 and 10, we observe that even if, as the Employer alleges, some Haitian Creole-speaking voters had limited reading ability, the Employer has failed to establish that those voters would have been confused about their voting options so as to cast doubt on the fairness or validity of the election, which was decided by a substantial margin. We further observe that there is no evidence from the conduct at the polls that the electorate was confused by the voting procedures (except as to such incidentals as, for example, how to enter the polling booth), or evidence that voters would have been unable to make an informed choice on the straightforward yes-or-no selection on the

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for Construction and Craft Workers Local Union No. 1652, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Included: All full-time and regular part-time production and maintenance employees employed by the Employer at its Pompano Beach, Florida facility located at 1380 NE 48th Street, Pompano Beach, Fl., 33064.

Excluded: All other employees including office clerical employees, professional employees, guards and supervisors as defined in the Act.

Dated, Washington, D.C., June 8, 2015.

Mark Gaston Pearce, Chairman

Philip A. Miscimarra, Member

ballots, which we note had been explained to employees at pre-election meetings. See *NLRB v. Precise Castings, Inc.*, 915 F.2d 1160, 1162-1163 (7th Cir. 1990), cert. denied 499 U.S. 959 (1991); *Arthur Sarnow Candy Co.*, 311 NLRB 1137, 1137 fn. 1 (1993); *Bridgeport Fittings*, 288 NLRB 124, 125 (1988).

Member Miscimarra concurs in the decision to adopt the hearing officer's recommendation to overrule Objections 6, 9, and 10 and to issue a certification of representative. He disagrees, however, with the hearing officer to the extent that his report may be read to suggest that, if an interpreter fails to appear at an election contrary to a preexisting agreement, a lesser or more forgiving standard of review applies when the agreement has been entered into by the Region rather than between the parties themselves. For the reasons stated above, however, Member Miscimarra agrees that the failure of the Haitian Creole interpreter to appear at the instant election does not raise a reasonable doubt concerning the fairness or validity of the election.

² The Employer asserts that the hearing officer erred when he recited the standard applicable for determining whether a party's misconduct could have affected the results of the election. We find that, although the hearing officer may have recited the standard for party misconduct, he also cited, and ultimately applied, the correct standard for evaluating whether conduct attributable to a Board agent may be objectionable, i.e., whether such conduct raises a reasonable doubt concerning the election's fairness and validity, and he reached the correct result in his analysis of this objection. See *Durham School Services, LP*, 360 NLRB No. 108, slip op. at 3 (2014).

Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD